IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

Crl.MC.No. 2216 of 2007()

CC.882/2005 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II, PERINTHALMANNA
CRIME NO.48/05 PERINTHALMANNA POLICE

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PETITIONER: ACCUSED NO.2:

PARAKKUZHY DEVANAND, S/O. KUTTAN,
PARAKKUZHY HOUSE, PUZHAKKATTIRI AMSOM,
MALAPPURAM DISTRICT.

BY ADV. SRI.DILIP MOHAN

RESPONDENTS: STATE/COMPLAINANT:

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1. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. STATION HOUSE OFFICER, PERINTHALMANNA POLICE STATION, MALAPPURAM.

BY P.P. SRI. JIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. NO. 2216 OF 2007

Dated this the 11th day of July, 2007

ORDER

The petitioner faces indictment in a prosecution, inter alia, under Sec.332 of the IPC. Investigation is complete. Final report has already been filed. Cognizance has been taken. But the petitioner (the 2nd accused) did not appear before the learned Magistrate on a date of posting obliging the learned Magistrate to issue a non-bailable warrant of arrest against the petitioner. The petitioner now finds a warrant of arrest issued by the learned Magistrate chasing him. According to the petitioner, he is absolutely innocent. His absence was not wilful. The petitioner is willing to surrender before the learned Magistrate and co-operate with the court for the expeditious disposal of the case against him. The petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits in

accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and

expeditiously – on the date of surrender itself.

4. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge